

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2012-236-C - ORDER NO. 2012-739  
SEPTEMBER 27, 2012

IN RE: Application of Palmetto Telephone	) ORDER DESIGNATING
Communications, LLC for Designation as an	) PALMETTO TELEPHONE
Eligible Telecommunications Carrier	) COMMUNICATIONS, LLC
	) AS AN ELIGIBLE
	) TELECOMMUNICATIONS
	) CARRIER FOR THE
	) PROVISION OF LIFELINE
	) SERVICE

This matter comes before the Public Service Commission of South Carolina (the “Commission”) and concerns the above captioned Application of Palmetto Telephone Communications, LLC (“Palmetto” or “the Company”) for Designation as an Eligible Telecommunications Carrier (“ETC”) in the Walterboro and Yemassee exchanges for the purpose of receiving federal low-income (Lifeline) universal service support, filed June 11, 2012 (the “Application”).

For the reasons explained in this Order, the Commission has concluded that the Application should be approved and that designation of Palmetto as an ETC on the terms described in this Order would serve the public interest.

**Background**

The present proposal to designate Palmetto as an ETC is presented to the Commission on the Application, the verified testimony of Jason J. Dandridge, and a Stipulation and Lifeline Compliance Plan filed on August 30, 2012, on behalf of Palmetto

and the Office of Regulatory Staff (“ORS”). The Applicant in this matter was represented by M. John Bowen, Jr., Esquire, and Margaret M. Fox, Esquire; the ORS was represented by Nanette S. Edwards, Esquire.

As directed by the Commission, notice of the filing of the Application was published and proof of publication provided to the Commission on July 11, 2012. No Petitions to Intervene were filed in this matter. ORS is a party pursuant to statute.

The Stipulation recommends that Palmetto be designated as an ETC for the limited purpose of providing Lifeline service to qualified households in accordance with the terms of the Stipulation. A copy of the Stipulation is attached hereto as Appendix I. On August 31, 2012, Palmetto filed a Motion for Expedited Review, requesting that the Commission grant expedited consideration of the Application, and approve the Application. Having considered the record before it, the Commission finds that the record before it is sufficient to make a final determination in this matter and that the interests of judicial economy are served by waiving the hearing and granting expedited review.

#### **ANALYSIS**

Section 214(e)(2)(e) of the Telecommunications Act of 1996 (the “Act”) authorizes state commissions to designate common carriers that meet the requirements as ETCs.<sup>1</sup> Section 103-690 of the S.C. Code Ann. Regs. provides that the Commission will

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<sup>1</sup> 47 U.S.C. Section 214(e)(2).

fulfill its responsibility to designate common carriers as ETCs and establishes the requirements that an applicant must meet in order to be designated an ETC.<sup>2</sup>

As demonstrated in the Application, the testimony, the Stipulation, and the Company's Compliance Plan, Palmetto satisfies all the relevant requirements for designation as an ETC specified in Sections 254 and 214 of the Act and Section 103-690 of the S.C. Code Ann. Regs. Palmetto is (i) a common carrier as defined by 47 U.S.C. Section 153(10), (ii) offers all the supported services,<sup>3</sup> (iii) uses its own facilities to provide the services, and (iv) offers service throughout its designated service area. Additionally, it has been demonstrated that following designation, Palmetto will (v) advertise the availability of its Universal Service offerings and charges through media of general distribution, specifically its Lifeline services throughout its ETC service area, and will provide notices at local unemployment, social security and welfare offices in satisfaction of S.C. Code Ann. Regs. Sections 103-690, 1E(a)(1) and 103-690.1E(b)(1), (vi) make Lifeline service available to qualifying low-income consumers without requiring a service deposit in order to initiate Lifeline service if the consumer elects toll limitation services, will not charge such customer a monthly number portability charge, will verify annually that its Lifeline customers meet the qualifications and will provide sixty (60) days notice to customers which it believes no longer qualify for Lifeline service,<sup>4</sup> (vii) certify that it complies with the service requirements applicable to the

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<sup>2</sup> See S.C. Code Reg. Section 103-690C.

<sup>3</sup> 47 U.S.C. Section 254(c); 47 C.F.R. Section 54.101(a); and S.C. Code Reg. Section 103-690C(a).

<sup>4</sup> See S.C. Code Ann. Regs. Section 103.690.1E(a)-(b).

support it receives, (viii) be able to remain functional in emergency situations,<sup>5</sup> (ix) satisfy consumer protection and service quality standards which are set forth in the CTIA Consumer Code as described in the Application including annual certification of its compliance and reporting of consumer complaints in accordance with S.C. Code Ann. Regs. Sections 103-690(C)(1)(a)(C)(3) and 103-690.1B(b)(4), (x) provide Lifeline local usage plans comparable to the incumbent local exchange carriers already operating in the area, (xi) comply with applicable reporting requirements including, but not limited to, annual progress reports required in S.C. Code Ann. Regs. Section 103-690.1, annual certification that it is able to remain functional in emergency situations required by S.C. Code Ann. Regs. Section 103-690.1B(b)(2) and annual outage reporting requirements of S.C. Code Ann. Regs. Section 103-690(B)(b)(2) and (xii) as explained below, take steps to limit fraud, waste and abuse in the federal universal fund programs.

On February 6, 2012, the FCC adopted comprehensive reforms to the low-income program to revise the Lifeline service requirements.<sup>6</sup> In the Lifeline Reform Order, the FCC adopted specific reforms attempting to limit fraud, waste and abuse in the low-income program. Palmetto commits to compliance with the rules as they are applicable. Section 103-690C(b) of the S.C. Code Ann. Regs. provides that, in determining whether an ETC designation is in the public interest, the Commission must consider, *inter alia*, the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering.

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<sup>5</sup> S.C. Code Ann. Regs. Section 103-690(C)(a)(2).

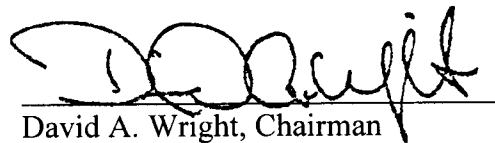
<sup>6</sup> *In the Matter of Lifeline and Link Up Reform and Modernization, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 11-42, FCC 12-11, released February 6, 2012. ("Lifeline Reform Order").

Considering all factors, the Commission determines that it is in the public interest that the Commission grant Palmetto ETC designation in the Walterboro and Yemassee exchanges for the purpose of receiving federal low-income (Lifeline) universal service support.

IT IS THEREFORE ORDERED THAT:

1. The testimony and Stipulation are accepted into the record without objection.
2. The Applicant's Motion for Expedited Review is granted.
3. Palmetto Telephone Communications, LLC is hereby designated as an ETC in the Walterboro and Yemassee exchanges for the purpose of receiving federal low-income (Lifeline) universal service support as requested in the Application and on the terms provided in the Stipulation.

BY ORDER OF THE COMMISSION:

  
David A. Wright, Chairman

ATTEST:

  
Randy Mitchell, Vice Chairman  
(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2012-236-C**

**August 30, 2012**

IN RE:	Application of Palmetto Telephone Communications, LLC for Designation as an Eligible Telecommunications Carrier	) ) ) )	<b>STIPULATION</b>
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This Stipulation is made by and among the Office of Regulatory Staff (“ORS”) and Palmetto Telephone Communications, LLC (“Palmetto” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”).

WHEREAS, on June 8, 2012, Palmetto filed its Application requesting Designation as an Eligible Telecommunications Carrier (“ETC”);

WHEREAS, ORS has reviewed the Application, filed on June 8, 2012;

WHEREAS, Palmetto is only seeking wireline ETC Designation for the purpose of participation in the Federal Universal Service Low Income Fund (“federal USF”); and

WHEREAS, as a result of its investigations, ORS has determined that subject to the provisions set forth below, Palmetto’s request for designation as an ETC should be approved.

WHEREAS Palmetto is a facilities-based competitive local exchange carrier and is a wholly- owned subsidiary of Palmetto Rural Telephone Cooperative, Inc. To the extent Palmetto utilizes facilities or services of its parent company, the use of those facilities or services is accounted for on the books of the respective companies through the cost allocation process.

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1. Palmetto is a wireline service provider offering voice communications and Lifeline services in South Carolina.
2. Palmetto has requested Lifeline-only ETC designation in South Carolina.
3. Palmetto agrees to advertise the availability of Lifeline using media of general distribution.
4. Palmetto has a Compliance Plan which is incorporated into this Stipulation and agrees to comply with the requirements and conditions set forth in the Compliance Plan.
5. Palmetto agrees to offer Lifeline credits consistent with the rates, terms, and conditions contained in its tariff, rate schedules and/or website and will publish the availability and the pricing of these same offerings on its website.
6. Palmetto agrees to notify the Commission of any changes to its Lifeline rates in South Carolina.
7. Palmetto agrees to provide Lifeline customers the federal lifeline credit of \$9.25 per month, consistent with 47 C.F.R. 54.403. In addition, Palmetto agrees to provide all South Carolina Lifeline customers with a company funded \$3.50 credit. In the event the Commission, the Federal Communications Commission, or a court of competent jurisdiction issues a decision that a credit of \$3.50 is not required to be provided by ETCs to South Carolina Lifeline customers, the parties agree that this Agreement will be modified to reflect that ruling.
8. Palmetto agrees to allow qualifying low-income consumers to apply Lifeline discounts (federal and state) to any residential service plan that includes voice telephony service, including

bundled packages of voice and data services; and plans that include optional calling features such as, but not limited to, caller identification, call waiting, voicemail, and three-way calling.

9. Palmetto agrees that it will abide by all advertising, reporting and verification requirements established by the FCC and the Commission.

10. Palmetto agrees that it will not seek reimbursement from the Federal Universal Service Fund for resold services where the company receives the Lifeline, and/or Toll Limitation Services through an underlying carrier.

11. Palmetto agrees to file all reports requested by ORS or the Commission, including but not limited to, the “Telecommunications Company Annual Report”, the “Authorized Utility Representative Form”, the “Gross Receipts Form” and the “USF Worksheet.” All forms may be found on the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov) in the telecommunications forms section. Additionally, a calendar is maintained on the ORS website for telecommunications carriers depicting the required forms and due dates.

12. If the designations sought herein are granted, Palmetto agrees to pay the annual gross receipts assessment in accordance with S.C. Code § 58-3-100 and S.C. Code § 58-4-60.

13. Palmetto agrees to file with the ORS a certified true copy of its Form 497 filed with the Universal Service Administrative Company (“USAC”), including revisions thereto, no later than 5 calendar days after the Form or revision is filed with USAC.

14. Palmetto agrees to offer a toll blocking and/or limitation option if toll is included with Palmetto Lifeline service.

15. Palmetto agrees that the company will not seek reimbursement for toll limitation services. The company agrees to provide toll block at no charge to customers seeking the service.



16. Palmetto agrees to implement or to participate in a program for initial certification and annual verification that insures that an eligible Lifeline customer is the head of the household and only receives one Lifeline credit per residential address and must conform with 47 C.F.R. § 54.410 and with its Compliance Plan.

17. If the designations sought herein are granted, Palmetto will be supporting Universal Service in South Carolina based on its total South Carolina retail end user telecommunications revenues, and must submit all documentation and Universal Service fees required by South Carolina.

18. Palmetto agrees to follow the FCC rules related to de-enrolling Lifeline customers receiving more than one Lifeline subsidy per household.

19. Palmetto agrees to submit a quarterly report to ORS demonstrating the number of Lifeline customers who have been deactivated by Palmetto during the quarter due to: (1) non-payment on their customer account during two consecutive 30-day periods; (2) customer failure to comply with or pass the annual verification requirement; or (3) voluntary customer-requested deactivation.

20. Palmetto agrees that ORS may examine the company's records and documentation of its regulated operations to ensure that the universal service support the Company receives is being used for the purpose for which it was intended. Palmetto is required to make such records and documentation available to ORS upon request. Palmetto acknowledges that if it fails to fulfill the requirements of the Act, the Commission's rules, or the terms of this agreement after it begins receiving universal service support, its ETC designation may be revoked.

21. Palmetto shall comply with all applicable state and federal laws, rules, and regulations regarding ETC designation and reporting requirements. More specifically, Palmetto agrees to abide by the Commission regulations regarding designation of an ETC found in 26 S.C. Code Ann. Reg. 103-690 as well as requirements set out by the FCC for ETC designation and for participation in the Lifeline program (e.g. FCC Regulation Part 54, Subpart E).

22. Palmetto agrees to comply with the FCC's marketing and disclosure requirements as set forth in Paragraph 275-277 of the *Lifeline Reform Order* (FCC 12-11) and associated rules.

23. Subject to the provisions set forth herein, ORS does not oppose the application of Palmetto for designation as an eligible telecommunications carrier.

24. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B) (Supp. 2011). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Stipulation reached among the Parties serves the public interest as defined above.

25. The Parties agree to advocate that the Commission accept and approve this Stipulation in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned

proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Stipulation be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Stipulation and the terms and conditions contained herein.

26. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts with, nullifies, or is otherwise materially different than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.

27. The Parties agree that signing this Stipulation will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation in its entirety without penalty or obligation.

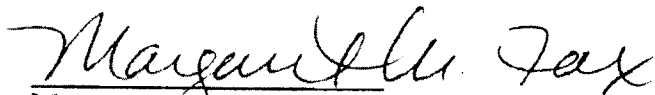
28. This Settlement Agreement shall be interpreted according to South Carolina law.

29. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Stipulation by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts,

with the original signature pages combined with the body of the document constituting an original and provable copy of this Stipulation. The Parties agree that in the event any Party should fail to indicate its consent to this Stipulation and the terms contained herein, then this Stipulation shall be null and void and will not be binding on any Party.

**[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]**

**On behalf of Palmetto Telephone Communications, LLC:**

A handwritten signature in black ink that reads "Margaret M. Fox". The signature is written in a cursive style with a horizontal line underneath the name.

Margaret M. Fox, Esquire  
McNair Law Firm, P.A.  
1221 Main Street, Suite 1600  
Columbia, SC, 29201  
Phone: (803) 799-9800  
Fax: (803) 753-3278  
Email: pfox@mcnair.net

**On behalf of the Office of Regulatory Staff:**

A handwritten signature in black ink that reads "Nanette Edwards". The signature is written in a cursive style with a horizontal line underneath the name.

Nanette S. Edwards, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, South Carolina 29201  
Phone: (803) 737-0575  
Fax: (803) 737-0895  
Email: [nsedwar@regstaff.sc.gov](mailto:nsedwar@regstaff.sc.gov)